IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6433 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

YASHVANT LAXMAN

Versus

DISTRICT COLLECTOR

Appearance:

MR TR MISHRA for Petitioner

Mr. HH Patel AGP for for Respondent No. 1

SERVED BY AFFIX.-(R) for Respondent No. 2

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 18/04/2000

ORAL JUDGEMENT

Notice of rule has been served. Nobody has appeared for respondent No. 2. Learned AGP Mr. H.H.Patel has appeared for respondent No. 1. In this

petition, the petitioner has prayed for directing the respondent No. 1 to recover the amount of Rs. 57,579.00 in terms of the order passed by the Controlling Authority under the Payment of Gratuity Act in application No. 235 of 1996 for its payment to the petitioner from respondent No.2. Earlier, on 3.11.1999, this court while issuing rule, has directed the respondent no. 1 to effect the recovery of the said amount pursuant to the recovery certificate dated 30.11.1993 (Annexure "A" to the petition) and the compliance was directed to be reported before this court on or before 22.12.1999. Thereafter, on 5.4.2000, learned advocate Mr. Mishra for the petitioner has pointed out before this court that the inspite of the aforesaid directions issued by this court on 3.11.1999, no compliance has been reported before this court till 5.4.2000 and hence on 5.4.2000, the District Collector, Ahmedabad District was directed to remain present personally or to depute some responsible person to remain present before this court on 18.4.2000. No steps have so far been taken by the first respondent for recovering the said amount from the respondent No. 2. Not only that but respondent No. 1 District Collector, Ahmedabad has not taken care to give any response to the orders passed by this court on 3.11.1999 and 5.4.2000. This Court is, therefore, having no option but to direct the respondent No. 1 to recover the said amount from the second respondent in terms of the decision of the Controlling Authority under the Payment of Gratuity Act, 1972. In the instant case, three years have passed after passing of the order by the Controlling Authority and till this date, the petitioner has not received single pie from the respondent No. 2. Therefore, this court is having no other option but to pass the following order:

Respondent NO. 1 is directed to recover the amount of Rs. 57,579/- from respondent NO. 2 immediately within one month from the date of receipt of copy of this order and after recovering the said amount from respondent No. 2, the respondent No. 1 is further directed to pay the said amount to the petitioner by account payee cheque drawn in favour of the petitioner as identified by learned advocate Mr.T.R. Mishra. Petition is, thus, allowed. Rule is made absolute to the above extent. There shall be no order as to costs.

18.4.2000. (H.K.Rathod,J.)

Vyas